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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/589,884	05/25/2007	Gerhard Boegel	2235-160	3544

6449 7590 11/05/2007  
ROTHWELL, FIGG, ERNST & MANBECK, P.C.  
1425 K STREET, N.W.  
SUITE 800  
WASHINGTON, DC 20005

EXAMINER

BRAINARD, TIMOTHY A

ART UNIT	PAPER NUMBER
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3662

NOTIFICATION DATE	DELIVERY MODE
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11/05/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-PAT-Email@rfem.com

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/589,884	BOEGEL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Timothy A. Brainard	3662	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☐ Responsive to communication(s) filed on 08 June 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)                       |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application             |
| Paper No(s)/Mail Date _____  | 6) <input checked="" type="checkbox"/> Other: <u>See Continuation Sheet</u> . |

Continuation of Attachment(s) 6). Other: information disclosure statement.

## **DETAILED ACTION**

### ***Drawings***

The subject matter of this application admits of illustration by a drawing to facilitate understanding of the invention. Applicant is required to furnish a drawing under 37 CFR 1.81(c). No new matter may be introduced in the required drawing. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 and 5-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada (US 5351126) in view of Rickman (US 2005/0111301). Takada teaches a hand-held measurement device for measuring distances to the surface of an object including a lens system intended for modulated transmitted beams and for those beams of the transmitted beams which are reflected by the surface region, for electro-optical distance measurement (fig 1, item 10 and col 4, lines 13-53) and the first component is formed both for measuring short distances, in particular between a zero point of the housing and the surface region, for electro-optical distance measurement and

Art Unit: 3662

means for automatic determination of a distance dependent on the measurement of the first component, both for distance measurement and for fixing the zero point for electro-optical measurement, are provided (abs) and (claim 2) the means for automatic determination is optical (abs).

Takada does not teach a housing, the first component extended beyond the housing used a spacer for distance measurement, the first component extends a predetermined fixed length beyond the housing for electro-optical measurement of short distances, and in the predetermined extended state of the first component, the zero point of the measured, short distance is embodied by that end of the first component which faces away from the housing, registering the predetermined extended state of the first component is provided, the first component can be swiveled out or extended to the predetermined extended state a scale or is coordinated with the first component, the first component is formed of elastically deformable, in the form of a strip, the guide of the first component is formed in such a way that it is held in the extended position with frictional adhesion. the remote end of the first is in the form of measuring hook, which is optionally displaceable by the material thickness of the measuring hook. a scale is arranged on the first component, that side of the component that faces away from the housing embodies the zero point of the scale. Rickman teaches (claim 1) a housing (fig 2, item 20), the first component extended beyond the housing used a spacer for distance measurement (fig 1, item 3 and para 13), (claim 5) the first component extends a predetermined fixed length beyond the housing for electro-optical measurement of short distances, and in the predetermined

Art Unit: 3662

extended state of the first component, the zero point of the measured, short distance is embodied by that end of the first component which faces away from the housing (fig 1), (claim 6) registering the predetermined extended state of the first component is provided (, (claim 7) the first component can be swiveled out or extended to the predetermined extended state (claim 8) a scale is coordinated with the first component (fig 1 and para 13), (claim 9) the first component is formed of elastically deformable, in the form of a strip (fig 1), (claim 10) the guide of the first component is formed in such a way that it is held in the extended position with frictional adhesion (para 14), (claim 11) the remote end of the first is in the form of measuring hook, which is optionally displaceable by the material thickness of the measuring hook (fig 1, item 38), (claim 12) a scale is arranged on the first component, the zero point of the scale is embodied by that side of the component which faces away from the housing (fig 1, item 34). It would have been obvious to modify Takada to include a housing, the first component extended beyond the housing used a spacer for distance measurement, the first component extends a predetermined fixed length beyond the housing for electro-optical measurement of short distances, and in the predetermined extended state of the first component, the zero point of the measured, short distance is embodied by that end of the first component which faces away from the housing, registering the predetermined extended state of the first component is provided, the first component can be swiveled out or extended to the predetermined extended state a scale or is coordinated with the first component, the first component is formed of elastically deformable, in the form of a strip, the guide of

Art Unit: 3662

the first component is formed in such a way that it is held in the extended position with frictional adhesion, the remote end of the first is in the form of measuring hook, which is optionally displaceable by the material thickness of the measuring hook, a scale is arranged on the first component, the zero point of the scale is embodied by that side of the component which faces away from the housing because each is one of multiple design choices with no new or unexpected result.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada in view of Rickman as applied to claim 1 above, and further in view of Honda et al (US 2004/0051860). Honda teaches the device has at least one further component, optionally arranged orthogonally to the first component for measuring short distances, and an optical sensor for automatic determination of the short distance is coordinated with the further component. It would have been obvious to modify Takada in view of Rickman to include the device has at least one further component, optionally arranged orthogonally to the first component for measuring short distances, and an optical sensor for automatic determination of the short distance is coordinated with the further component because it would allow an operator to measure both dimensions of a room without moving the measurement apparatus.

Claims 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takada in view of Rickman as applied to claim 1 above, and further in view of Masreliez et al (US 5894678). Masreliez teaches a scale for measuring distances is arranged on the housing, the zero point of a scale is embodied by the

Art Unit: 3662

measuring stop (col 4, lines 34-57). It would have been obvious to modify Takada in view of Rickman to include a scale for measuring distances is arranged on the housing, the zero point of a scale is embodied by the measuring stop because it is allow an operator to determine the distance from the back of the housing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy A. Brainard whose telephone number is (571) 272-2132. The examiner can normally be reached on Monday - Friday 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Tarcza can be reached on (571)272-6979. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Art Unit: 3662

TAB

A handwritten signature in black ink, appearing to read "Thomas H. Tarcza".

THOMAS H. TARCZA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600